

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS**

DEBORAH LAUFER, Individually,  
Plaintiff,

v.

J&J EXECUTIVE SUITES LLC,  
Defendant.

Case No. 6:20-cv-385

**PLAINTIFF’S NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff, by and through undersigned counsel, hereby submits this Notice of Supplemental Authority in support of her Memorandum in Support of Standing filed on May 29, 2020.

In *Parks v. Richard*, 2020 U.S. Dist. Lexis 86790 (M.D. Fla. 5/18/2020), one court in the Middle District of Florida rejected the defendant’s argument that the plaintiff needed to intend to book a room at the hotel. First, the court held that the plaintiff sufficiently “alleged he suffered an injury in fact by encountering barriers that violate the ADA.” *Id.*, at 4-5. The court directly rejected the defendant’s argument that the plaintiff lacked standing because he never visited or intended to visit the hotel. The court held that the:

ADA claim is based upon [defendant's] website failing to identify the accessible features of the motel and its rooms, in violation of 28 C.F.R. § 36.302(e)(1)(ii). Therefore, the relevant 'future injury' inquiry relates to the motel's website and reservation system, rather than the motel's physical

property." [Citation omitted.] While Parks may have never visited the motel, he visited its website and several third-party sites.

*Id.* at 7. The court also held that the Proximity Test was less applicable to ORS cases and additionally held that the distance between the property and the home was inapplicable, or weighed in plaintiff's favor, because hotels are designed to cater to travelers from afar. *Id.*, at \*6. The court additionally held that a plaintiff establishes standing when they have a system of rechecking websites. *Id.*

In *Kennedy v. Swagath Hospitality, LLC*, 0:19-cv-60583-DPG, DE 27 (S.D. Fla. 1/2/2020), a court in the Southern District rejected the physical nexus argument, stating:

Plaintiff alleges that (1) she visited Defendant's website to ascertain whether it met the requirements of 28 C.F.R. Section 36.302(e), (2) she intends to return to the website to test it for compliance and/or to reserve a guest room, and (3) Defendant's failure to comply with the Americans with Disabilities Act ("ADA") is ongoing and harmful to her..... Based on these allegations, the Court finds that Plaintiff has sufficiently alleged an injury-in-fact and an intent to the return to the website in the future.

In *Kennedy v. Galleon Resort Condominium Assn, Inc., et al.*, 19-cv-62421-CMA, DE 52 (S.D. Fla. 1/28/20), another district court rejected the defendant's arguments (filed at DE 39) that a physical nexus was required between a discriminatory ORS and the physical hotel.

In *Kennedy v. Nila Investments, LLC*, 2:19-cv-90-LGW-BWC, DE 34 (S.D. Ga. 7/1/20), one Georgia court granted default judgment after an evidentiary hearing,

finding that the plaintiff Kennedy suffered discrimination when she visited the non-compliant ORS. The court additionally found that the plaintiff had standing because she visited the ORS both before and after the lawsuit was filed “for the purpose of assessing the accessibility features of the property and to ascertain whether those sites met her accessibility needs as well as the requirements of 28 C.F.R. § 36.302(e)(1).” *Id.* at p. 5.

DATED: July 29, 2020

Respectfully submitted,

/s/ Tristan W. Gillespie  
Tristan W. Gillespie, Esq.

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